

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, January 25, 2006

ASSEMBLY BILL 491  
ALTERNATIVE ENROLLMENT PROJECTION METHODS

PURPOSE OF REPORT

To request:

1. Adoption of amendments to the School Facility Program (SFP) regulations in order to implement Assembly Bill (AB) 491, Chapter 710, Statutes of 2005 (Goldberg).
2. Authorization to file the proposed regulations on an emergency basis with the Office of Administrative Law (OAL).

BACKGROUND

A district must have new construction eligibility to request funding for new construction projects under the SFP. New construction eligibility is predicated on a district demonstrating that existing seating capacity is insufficient to house the pupils existing and anticipated in the district using a five-year projection of enrollment known as the Cohort Survival Enrollment Projection System. Once the new construction eligibility is determined, a "baseline" is created that remains in place as the basis of all future funding applications. The baseline is adjusted for changes in enrollment and for facilities added. Prior to AB 491, districts could only demonstrate SFP eligibility utilizing the five-year Cohort Survival Enrollment Projection System in order to request new construction funding.

DESCRIPTION

AB 491, signed into law on October 7, 2005, authorizes eligible school districts to utilize an alternative enrollment projection method to generate additional eligibility for SFP new construction projects and adds Critically Overcrowded School (COS) Program projects funded from the Kindergarten-University Public Education Facilities Bond Act of 2004 to be able to utilize an alternative method to determine eligibility for a Final Apportionment. The law and the amendments to the SFP regulations are summarized as follows:

*Alternative Enrollment Projection Method for the New Construction Program*

- A school district must have two or more school sites with a specific population density specified in law to be able to utilize an alternative enrollment projection method.
- The alternative enrollment projection method must be reviewed and approved by the Demographic Research Unit (DRU) of the Department of Finance (DOF), and the Office of Public School Construction (OPSC).
- The documents for the alternative enrollment projection method must meet the minimum criteria outlined in the regulations.
- The additional eligibility that will be added to the baseline is the difference between the eligibility generated by the alternative enrollment projection and the Cohort Survival Enrollment Projection System for the same enrollment reporting year.
- The school district must demonstrate that the funding application submitted utilizing eligibility generated under an alternative method will relieve overcrowding.
- The Board can provide up to \$500 million for new construction projects using this alternative eligibility method.

DESCRIPTION (cont.)*COS Program*

- COS projects funded from the Kindergarten-University Public Education Facilities Bond Act of 2004 will be able to utilize current year California Basic Educational Data System (CBEDS) enrollment when the five-year projection does not demonstrate continued SFP eligibility to support the conversion of the COS project. As an alternative to current CBEDS enrollment data, a district that has filed its SFP eligibility on a High School Attendance Area basis can report its enrollment based on pupil residency information data and elect to report either the actual or a five-year projection of the pupil residency data using the Cohort Survival Enrollment Projection System. Prior to this bill, only COS projects funded from the Kindergarten-University Public Education Facilities Bond Act of 2002 could utilize these methods.

STAFF COMMENTS

Proposed regulations were discussed at a SAB Implementation Committee meeting and were agreed upon by the Committee. The regulations presented to the Committee included a provision for districts to consider all available existing eligibility mechanisms prior to submitting a request for review of an alternative enrollment projection method. A member of the Committee requested an additional provision to require that an applicant district demonstrate that the Cohort Survival Enrollment Projection System does not provide accurate projections of future enrollment for the district. The general consensus of the Committee was that no further provisions are necessary and the regulations agreed to by the Committee did not include this additional provision. Subsequent discussions with the DOF, however, have led to the proposed regulatory language presented in the Attachment which includes this additional provision (see highlighted text).

Applications for alternative enrollment projections can be submitted for review to the OPSC and DOF upon approval of the proposed regulations by the State Allocation Board (SAB), and prior to the regulations becoming effective, in order to expedite the review process. However, new construction funding applications using the eligibility generated by the alternative enrollment projection can only be submitted once the regulations are approved by the OAL.

DRU representatives estimate that the processing of an application for the alternative enrollment projection method may take as few as 30 days. However, the processing period may be extended in cases where additional information from the applicant district may be needed, or during the times of the year when DRU has an increased workload related to annual budget reviews (September through November) and verification of enrollment data for K-12 public schools (mid-March to mid-April).

Several districts are anticipating that they will occupy new school facilities in the coming school year and cannot justify the project under the Cohort Survival Enrollment Projection System. If the regulations are filed on a non-emergency basis, districts are concerned that the regulations will not be approved by the OAL prior to the new classrooms being occupied, in which case districts will be disadvantaged by not being able to submit funding applications for the classrooms that will be considered occupied. As a result, the Committee requested that the OPSC and the SAB file the regulations on an emergency basis to ensure the expeditious processing of applications and apportionment of the available funding (\$500 million). Furthermore, the emergency approval is necessary to provide timely relief to districts with overcrowded school campuses. The OPSC recommends that the SAB adopt the attached regulations on an emergency basis, as they are necessary for the immediate preservation of the public peace, health and safety, or general welfare.

RECOMMENDATIONS

1. Approve the proposed regulatory amendments as shown on the Attachment and begin the regulatory process.
2. Authorize the OPSC to file the regulations with the OAL on an emergency basis.

BOARD ACTION

This Item was approved by the State Allocation Board on January 25, 2006 with the following modification:

Revise Regulation Section 1859.40(b)(1) to read: "Provide a description to the OPSC on how the district cannot adequately meet its housing needs at the impacted school sites after considering all existing eligibility mechanisms available from the Cohort Projections;".

ATTACHMENT  
PROPOSED AMENDMENTS TO THE  
SCHOOL FACILITY PROGRAM REGULATIONS  
State Allocation Board Meeting, January 25, 2006

Amend Regulation Section 1859.2 as follows:

Section 1859.2. Definitions.

...  
"Alternative Enrollment Projection" means a calculation of projected enrollment by eligible school districts as authorized by Education Code Section 17071.75(a)(1).

...  
"Approved Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01, *Enrollment Certification/Projection*, (Revised 09/04); SAB 50-02, *Existing School Building Capacity*, (Revised 09/02); SAB 50-03, *Eligibility Determination*, (Revised 06/04); and SAB 50-04, *Application for Funding*, (Revised ~~05/05~~ 01/06), as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a).

...  
"Demographic Research Unit" (DRU) means this office within the California Department of Finance.

...  
"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised ~~05/05~~ 01/06), which is incorporated by reference.

...  
Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Amend Regulation Section 1859.40 as follows:

Section 1859.40. Enrollment Projections Used to Determine a District's Eligibility for New Construction Grants.

The district shall provide an enrollment Certification and report enrollment data, on the Form SAB 50-01. The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction funding. The enrollment projections generated by completing the Form SAB 50-01 shall be known as Cohort Projections for purposes of this section.

- (a) In addition, a School District that meets the eligibility criteria as specified in Education Code Section 17071.75(a)(1) and has applied for determination of eligibility pursuant to Section 1859.20, may submit a request for review of an Alternative Enrollment Projection to the OPSC and the DRU.
- (b) The request must contain all of the following to substantiate the Alternative Enrollment Projection methodology:
- (1) provide a description to the OPSC on how the district cannot adequately meet its housing needs at the impacted school sites, after considering all existing eligibility mechanisms available from the Cohort Projections;
  - (2) a written explanation of the methodology for calculating the enrollment projections;
  - (3) an electronic copy of the calculations used in determining the enrollment projections;
  - (4) a disclosure of any assumptions that support the calculations of enrollment projections;
  - (5) a minimum of three years or more, as determined necessary by the DRU, of historical data used in

calculating the enrollment projections. The data must be verifiable, annually based, and geographically organized if the school district's boundaries have changed since the 2000 Census conducted by the United States Census Bureau.

- (6) a list of source(s) used to collect all applicable data with contact information for each data source;
- (7) a separate enrollment projection for each grade level;
- (8) a district-wide enrollment projection for any district that reports district-wide enrollment on the Form SAB 50-01; or HSAA enrollment projection(s) for any district that reports enrollment for one or more HSAA(s) on the Form SAB 50-01; or Super HSAA enrollment projection(s) for any district that reports enrollment for one or more Super HSAA(s) on the Form SAB 50-01.

The eligibility generated by an Alternative Enrollment Projection shall be made available to eligible school districts pursuant to Education Code Section 17071.75(a)(1), that received the OPSC's and the DRU's approval of the Alternative Enrollment Projection, until the combined Apportionments for all funding requests utilizing eligibility available from the Alternative Enrollment Projection reaches \$500 million and/or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Amend Regulation Section 1859.51 as follows:

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

- ...
- (q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized as the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

Amend Regulation Section 1859.70 as follows:

Section 1859.70. General.

A district seeking New Construction or Modernization funding shall complete and file Form SAB 50-04, after completing the applicable requirements in Section 1859.20, and after submitting a request for review of the Alternative Enrollment Projection, if applicable. The Board shall only provide New Construction funding if the Approved Application was received by the OPSC prior to the date of Occupancy for any classrooms included in the construction contract. After the date of Occupancy of any classroom in the construction contract, a district will be ineligible to seek New Construction funding and the classrooms will be reduced from the baseline eligibility pursuant to Section 1859.51(i) if not previously reduced.

A district affected by a reorganization election on or after November 4, 1998 may not file an application for New Construction funding after the notification of the reorganization election until a new calculation of the district's baseline eligibility has been determined on the Form SAB 50-03, or the district certifies that the reorganization election will not result in a loss of eligibility for the project for which the district is requesting new construction grants.

A district that is newly created as a result of a reorganization election may file an application for funding after approval of the election has been made by the State Board of Education.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.75, 17072.10 and 17074.10, Education Code.

Amend Regulation Section 1859.93.1 as follows:

Section 1859.93.1. New Construction Project Funding Order.

All new construction applications, except those new construction applications identified in (a) ~~and (b)~~ through (c) below, shall be funded in the order of receipt of an Approved Application for funding.

- (a) Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.
- (b) Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.
- (c) Approved Applications that utilize pupil eligibility derived from the Alternative Enrollment Projection method. These applications shall be funded in date order received once the OPSC and the DRU have approved the Alternative Enrollment Projection method or the Alternative Enrollment Projection annual update.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.25 and 17070.35, Education Code.

Amend Regulation Section 1859.95 as follows:

Section 1859.95. Acceptance of Applications When Funding Is Unavailable.

When the Board has no funds to apportion or the application does not qualify for funding because of the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination, with the exception of applications that include a request for review of an Alternative Enrollment Projection method. The Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the application is Ready for Apportionment, with the exception of New Construction funding applications that utilize eligibility generated by the Alternative Enrollment Projection.

The Board will return any applications for the review of the Alternative Enrollment Projection method and New Construction applications that utilize eligibility generated by the Alternative Enrollment Projection once the funding apportioned for these projects reaches \$500 million and/or the Board has no funds to apportion from the Kindergarten-University Public Education Facilities Bond Act of 2004.

If either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time, the application may, at the discretion of the Board, receive a date on the Unfunded List or receive funding pursuant to Section 1859.91 based on the date the application is Ready for Apportionment, adjusted back in time for the number of calendar days the application was delayed.

Applications for New Construction Adjusted Grants for a project where the site was apportioned pursuant to Section 1859.75.1 shall receive a date on the Unfunded List based on the date the environmental hardship

site apportionment was made for the project.

With the exception of financial hardship eligibility, a district with an application included on an Unfunded List shall not be required to re-establish eligibility for that application prior to apportionment.

An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the New Construction Grants amount pursuant to Section 1859.77.

Note: Authority cited: Sections 17070.35 and 17072.25, Education Code.

Reference: Sections 17070.35 and 17071.75, Education Code.

Amend Regulation Section 1859.147 as follows:

Section 1859.147. Conversion of Preliminary Apportionment.

When a Preliminary Apportionment is converted to a Final Apportionment, the following criteria must be met:

- (a) The district must have current New Construction Eligibility sufficient to support at least 75 percent of the pupils the district requested and received the Preliminary Apportionment, except as allowed in (d) or (e).
- (b) The Final Apportionment request must meet all criteria for a New Construction Adjusted Grant pursuant to Section 1859.21.
- (c) A district seeking to convert a Preliminary Apportionment to a Final Apportionment shall complete and file Form SAB 50-04, which requests funding for at least 75 percent, but not more than 100 percent, of the pupils the district requested and received the Preliminary Apportionment.
- (d) In lieu of (c), when the district's enrollment has decreased to less than 75 percent of the pupils requested for the project's Preliminary Apportionment, the district may utilize any SFP eligibility justified for its conversion to a Final Apportionment.
- (e) In lieu of (a), ~~for a project funded from the Kindergarten-University Public Education Facilities Fund of 2002~~, sufficient project eligibility may be determined utilizing:
  - (1) The current year enrollment as recorded on the Form SAB 50-01 for the year in which the application for the Final Apportionment is submitted.
  - (2) Either (A) or (B) below for a district reporting eligibility pursuant to Section 1859.41. Once utilized that same subparagraph must be used for all remaining Preliminary Apportionments under this subdivision:
    - (A) The current year pupil residence data within the HSAA in which the project will be built, for the year in which the application for the Final Apportionment is submitted.
    - (B) The projected pupil residence for the year in which the application for the Final Apportionment is submitted, calculated by the cohort survival enrollment projection method, utilizing pupil residence data for the HSAA in which the project will be built.

It is not necessary to re-justify the Qualifying Pupils assigned to the Preliminary Application as required by Section 1859.142(c) at the time the application is converted to a Final Apportionment.

An Approved Application received by the OPSC on or after January 1, 2005 to convert a Preliminary Apportionment to a Final Apportionment may utilize an alternate eligibility justification pursuant to Section 1859.147(e), provided that the project meets all other funding requirements at the time of submittal.

If the district is unable to meet the criteria in this Section, the Preliminary Apportionment shall be rescinded pursuant to the provisions of Section 1859.148.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Section 17078.27, Education Code.